

A. T.N. GODAVARMAN THIRUMULKPAD ETC.

v.

UNION OF INDIA AND ORS. ETC. ETC.

MARCH 4, 1997

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[J.S. VERMA AND B.N. KIRPAL, JJ.]

Forest Conservation Act, 1980 :

C *Protection and Conservation of forests—Felling of trees—Saw mills, veneer and plywood industries—Restriction on grant of fresh permission/licence to—Mining operations within forest areas—Further directions given in continuation of order dated 12.12.1996 passed by this Court*.*

**T.N. Godavarman Thirumulkpad v. Union of India and Others*, [1997] 2 SCC 267, referred to.

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CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 202 1995 Etc.

(Under Article 32 of the Constitution of India.)

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Ashok Desai, Attorney General, Altaf Ahmed, V.R. Reddy, Additional Solicitor Generals, N.N. Goswami, H.N. Salve, Kapil Sibal, Dushyant Dave, Dr. Rajeev Dhawan, P.S. Poti, T.L.V. Iyer, Dr. Shankar Ghose, Jayant Das Tapas Raoy, M.S. Nargolkar, Anil B. Divan, Arun Jaitley, A.K. Ganguli, N.S. Hegde, P.K. Goswami, P. Zaiwalla, K.K. Venogopal, G.L.

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R.B. Misra, Adv. for State of U.P., H.K. Puri, Rajesh Srivastava, Ujjwal

Banerjee, K.B. Rohatagi, Ms. Aparna Rohtagi Jain, S.M. Jadhav, H.S. Munjral, R.S. Suri, Ms. S. Janani, Prem Malhotra, D.S. Mehra, B.B. Singh, T. Anil Kumar, D.P. Gupta, J.S. Manhas, P.H. Parekh, Sameer Parekh, Ms. Indoo Verma, Amit Dhingra, M.L. Lahoty, Pawan Sharma, Himanshu Shekhar, Rana Mukherjee, Ms. Sunita Mukherjee, Goodwill Indeevar, P.P. Tripathy, Anil Agrawala, Raj Kumar Gupta, H.V.P. Sharma Rajesh, Vijay Hansaria, Sunil K. Jain J.K. Bhatia, C.K. Sasi, D.L.N. Rao, Sunil Dogra, U.K. Sagar, P.P. Singh, A.K. Panda, N.C. Phukhar, Dayan Krishnan, Nikil Nayar, K.J. John, Joy Joseph, Ms. Malini Poduval, K.M.K. Nair, E.M.S. Anam, Janes Koshy, S. Ravindra Bhat, D.K. Mishra, Naveen R. Nath, Ms. Hetu Arora, Ajit Pudussery, Roy Abrahamo, Ms. Baby Krishnan, Gopal Prasad, Ejaz Maqbool, V. Chidambaresh, B.V. Deepak, Ramesh Babu, M.R., M.K.D. Namboodri, Ms. C.K. Sucharita, Sushil Kumar Jain, R.K. Pareek, Gopal Modi, A.P. Dhamija, Pradeep Aggarwal, Ms. Pinky Anand, Ms. Geeta Luthra, D.N. Goburdhan, R.K. Gupta, K.K. Gupta, Bijan Ghosh, A.N. Dawn, A.C. Majmudar, B.K. Satija, Ms. Dipti Choudhary, Sanjay Bhownick, R.C. Gubrele, K.R. Gupta, Vivek Sharma, Ms. Nanita Sharma, Ashok Sudan, Uday Kumar, Sagar, E.C. Vidyasarar, R.C. Verma, Ms. Manik Karanjawala, Rajiv Mehta, P.P. Singh, Ms. Rekha Pandey, L.R. Singh, K.L. Janjani, D.M. Nargolkar, Bharat Sangal, U.U. Lalit (A.C.), Ms. Purnima Bhat, Ms. Meenakshi Sakhardande, Mahender Vyas, J.S. Manhas, A.K. Sharma, Ms. Anil Katiyar, R. Sasiprabhu, A.V. Palli, Zafar Shah, (Atul Sharma) for Ms. Rekha Palli, Ms. Kavita Wadia, S.K. Bhattacharya, S.K. Dingra, S.K. Agnihotri, B.P. Agarwal, G. Prakash, Ms. Beena Prakash, Ranjan Mukherjee, Raj Kumar Mehta, M.A. Krishna Moorthy, J.B. Ravi, S. Balakrishnan, R.N. Keshwani, Chandrakanta Nayak, Joseph Pookkatt, for the appearing parties.

The following Order of the Court was delivered :

1. After hearing Mr. Harish N. Salve, the learned Amicus Curiae, learned Attorney General and learned counsel appearing for the States and other parties in these matters, it is clear that no substantial variation in the earlier order dated 12.12.1996 is required to be made as an interim measure; and that some minor variation to the extent indicated hereinafter is all that is required to be done at present.

We are satisfied that there is need to constitute a High Power Committee to oversee the strict and faithful implementation of the orders

A of this Court in the North Eastern Region and for certain ancillary purposes. Accordingly we direct as under :

(i) There shall be a Committee as under :

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- (a) Shri T.V. Rajeshwar, Chairman;
 - (b) Shri R.N. Kaul, Retd. I.G. of Forests - Member; and
 - (c) one representative nominated by the Ministry of Environment and Forests (MOEF) - Member Secretary.

C Shri T.V. Rajeshwar and Shri R.N. Kaul have given their consent for the purpose.

(ii) This Committee shall oversee preparation of inventory of all timber in all forms (including timber products

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- (a) lying in the forest or in transit depots, and
 - (b) lying in mill premises).

The inventory should, wherever possible, indicate the origin and source of the timber.

E The Committee may for this purpose select suitable persons who would be made available by the concerned State Government at its request.

As far as possible, such inventory should be prepared within eight weeks from today.

F (iii) The Committee may, if it considers appropriate, permit the use or sale of any part of the timber or timber products. Any sale shall be effected through the Forest Corporation of the State under overall supervision of the Committee.

G (iv) The net sale proceeds after deduction of the transaction related costs and payment of wages to the labour and staff shall be deposited by or through the Forest Corporation Forest Deptt. in a designated account.

The modalities will be worked out by the Committee.

H (v) The Committee may, through the Amicus Curiae, apply for such

directions from time to time as it considers appropriate.

(vi) The MOEF will make available as far as possible within a week suitable office space and provide secretarial and all other related facilities in Delhi (including local transport and telecommunication) befitting the stature of the Committee.

The MOEF will make arrangements for and meet expenses of travel of the Committee. All arrangements for stay etc. of the Committee (outside Delhi) as may be necessary, would be the responsibility of the State Govt. concerned.

The Assam Government will make similar office and other facilities available in Gauhati.

It is for the sake of convenience at this stage that the Central Government and the State Governments are being directed to make certain payments and meet all the expenses. However, the question of liability for payment of these amounts would be considered at the final hearing and suitable directions for the purpose given at that stage indicating the principle for determining the liability for making the payment.

2. It is clarified that the directions contained in the order dated 12.12.1996 and this order would not apply to minor forest produce, including bamboos, etc.

3. The State of Meghalaya has asserted in its affidavit that a significant quantity of timber is required for use in the State itself by the rural tribal population. It has also asserted that there is a loss of revenue to the State Government on account of restrictions placed by the order of 12.12.1996; and a large number of people of the State have been deprived of the employment. The State is directed to file an affidavit with full and complete particulars of :

(i) the quantity of timber which comes from its forest for use by the rural tribal population, the extent to which it is made available to the rural tribal population including the terms on which it is so made available;

(ii) the revenue derived by the State by way of royalty from the minerals, mines and forest areas, purchase tax on export of

- A timber; sale value of timber drawn from the Govt. forests and the extent and quantity of such sale and the manner of sales;
- (iii) the number of wood-based industries within the State and the number of person employed in such industry.
- B 4. All unlicensed saw mills, veneer and plywood industries in the State of Maharashtra and the State of Uttar Pradesh are to be closed forthwith and the State Government would not remove or relax the condition for grant of permission/licence for the opening of any such saw mill, veneer and plywood industry and it shall also not grant any fresh permission/licence for this purpose. The Chief Secretary of the State will ensure strict compliance of this direction and file a compliance report within two weeks.
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- D 5. A total of 5322.97 cubic meters of timber presently held by the private parties in their stock purchased from the J & K State Forest Corporation as per Annexure D to the affidavit dated 18th February, 1997 filed on behalf of the Government of J & K is permitted to be moved; and any such movement be effected after due certification, consignment-wise made by the Managing Director of the State Corporation which will include certification that the timber has come from State Forest Corporation sources (as per para 6(a) at page 11 of the earlier order dated 12.12.1996).
- E The stocks of kail, chir and fir in the depots of the Forest Corporation are permitted to be disposed of by the Forest Corporation in any manner which would include movement and disposal of the same even outside the State as per the requirements as indicated in above said para 6(a). All this would be done by the Forest Corporation itself.
- F The above directions are to be read along with those contained in the order dated 12.12.1996.

MINING MATTERS

We direct that -

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1. where the lessee has not forwarded the particulars for seeking permission under the FCA, he may do so immediately;
 2. the State Government shall forward all complete pending applications within a period of 2 weeks from today to the Central Government for requisite decisions;
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3. applications received (or completed) hereafter would be forwarded within two weeks of their being so made. A
4. the central Government shall dispose of all such applications within six weeks of their being received. Where the grant of final clearance is delayed, the Central Government may consider the grant of working permissions as per existing practice. B

General Directions

It is made clear that the order passed by this Court in these matters, including the order dated 12.12.1996 and the present order shall be obeyed and carried out by the Union Government as well as the State Governments, notwithstanding any order or direction passed by a court, including a High Court or Tribunal, to the contrary. C

We further direct the Registrar General to communicate the order dated 12.12.1996 as well as the present order to the Registrars of all the High Courts to ensure strict compliance. It is also clarified that the orders passed by this Court including the order dated 12.12.1996 and this order will apply to all Autonomous Hill Council in the North-Eastern States as well as the Union Territories. D

It is made clear that all the concerned authorities would, in the meantime, continue to examine the various aspects of the problems requiring solution and try to solve these problems in collaboration with the Central Government and the State Governments. An efficacious exercise of this kind would enable reduction of the area which may require judicial scrutiny and adjudication in these matters. E

I.A. Nos. 6-14 of 1996. F

IN

Civil Appeal Nos. 357-75 of 1977.

WITH G

I.A. No. 1 of 1996.

IN

Civil Appeal No. 2457 of 1977. H

A WITH

I.A. Nos. 3-4 of 1996.

IN

B Civil Appeal Nos. 1344-45 of 1976.

WITH

Writ Petition No. 202 of 1995

C ORDER

In modification of the earlier orders in the Civil Appeal Nos. 357-75 of 1977, 2457 of 1977 and 1344-45 of 1976 and Writ Petition No. 202 of 1995, it is directed as under :

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(i) As far as shade-trees in the Janmam areas are concerned, they would be governed by para 4(a) of our order dated 12.12.1996 insofar as it applies to the State of Tamil Nadu. However, all trees so felled in the Janmam areas shall be delivered by the plantation to the State Govt. which will be free to deal with and dispose of the same. The State Govt. shall, however, keep a record of all such trees received by it. This will apply also to trees felled prior to the interim orders which are still in the possession of the plantations.

F (ii) Insofar as fuel trees are concerned, we direct that felling of fuel trees be carried on strictly in accordance with the Report of TANTEA. After felling of fuel trees, the Plantations shall submit the account of such trees to the State Govt. They may consume for their own use such number of fuel trees as are necessary and given an account of the same to the State Govt. Any fuel trees not required by them would be surrendered by them to the State Govt. and the State Govt. would be free to deal with such trees. The State Govt. shall, however, maintain an account of any fuel trees received by it.

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(iii) We further clarify that the direction that there will be no further expansion of the Plantation so as to involve encroachment (by way of clearing or otherwise of forest) will apply to the Janmam Lands as well. A

I.A. Nos. 6-14 of 1996 in CA Nos. 357-75 of 1977, I.A. No. 1 of 1996 in CA No. 2457 of 1977, I.A. Nos. 3-4 of 1996 in CA Nos. 1344-45 of 1976 are allowed in the above terms. B

The Golf Course at Kodaikannal and Udagamandalam are permitted to function subject to the condition that the district collector and the Distt. Forest Officer of the area concerned are associated with the functioning of the same till the approval of the Government of India is received. C

R.P. W.P. disposed of. I.As. allowed with some directions.